

## INTERMODAL

CHAPTER 201  
INTERMODAL PILOT PROJECT PROGRAM**761—201.1(72GA,Ch230) General information.**

**201.1(1) Scope of chapter.** This chapter establishes procedures for an intermodal pilot project program using funds transferred to the department by 1987 Iowa Acts, chapter 230, for grants and loans for one or more pilot projects of intermodal transportation facilities.

**201.1(2) Information.** Information about the program, project guidelines, requests for assistance, and answers to questions about the preparation and submission of project applications for funding may be obtained by contacting: Rail and Water Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1367.

**761—201.2(72GA,Ch230) Definitions.** The following terms when used in this chapter shall have the following meanings:

*“Demonstration project.”* A pilot project that demonstrates a commercially available energy conservation technique or technology to a target audience.

*“Iowa shipper.”* A freight originator or receiver located within Iowa. This term does not include a shipper whose freight passes through Iowa without originating or terminating in Iowa.

*“Present value.”* The current worth of a future cash flow, determined by discounting the future cash flow by an assumed percentage per year factor.

*“Target audience.”* The audience which a demonstration project is intended to reach. A target audience may be an industry, a public agency, a legislative body, or other group which may use or benefit from the concepts or technologies demonstrated by the pilot project or influence the spread of the concept or technology.

**761—201.3(72GA,Ch230) Eligibility.**

**201.3(1) Applicant.** An applicant is an individual, partnership, firm, company, cooperative, corporation, association or governmental entity and is the proposed recipient of financial assistance. The applicant shall have, where applicable, authority from its board of directors or other governing body to seek financial assistance for the proposed pilot project, to enter into a commitment to repay any loan awarded, to pledge any security offered for the loan, and to proceed with the pilot project if the requested financial assistance is granted.

**201.3(2) Pilot project.** A pilot project is eligible for financial assistance if it meets all of the following conditions:

*a.* It is a specific plan for a new intermodal transportation facility or for the improvement, restoration, conservation, repair, rehabilitation or expansion of an existing intermodal transportation facility.

*b.* It is a site, a structure, or equipment that accomplishes or aids in the transfer of freight from one mode of transportation to another, including but not limited to ports, terminals, freight distribution centers, intermodal rolling stock, bulk-breaking facilities, and loading facilities.

*c.* It is located within Iowa. An eligible pilot project may involve freight and equipment which travels beyond Iowa, provided that any permanently located facility is located within Iowa.

*d.* It complies with Iowa Code section 473.11 and with 10 CFR section 420.12.

**201.3(3) Costs.**

*a. All projects.* All costs of the pilot project are eligible except the following:

(1) Preparation of the application.

(2) Acquisition of land, a building or structure or any interest therein.

(3) Conducting or purchasing equipment to conduct research, development or demonstration of conservation techniques or technologies not commercially available.

*b. Nondemonstration projects.* The following are additional prohibited costs for a pilot project which is not a demonstration project:

- (1) Construction.
- (2) Construction or repair of buildings or structures.
- (3) Purchase or installation of equipment or materials for energy conservation building retrofits or weatherization.
- (4) Purchase of office supplies, library materials, or equipment in excess of 20 percent of project costs.

*c. Demonstration projects.* A demonstration project is not subject to the additional cost prohibitions in paragraph 201.3(3) “*b.*” For example, demonstration projects may include costs for construction and equipment purchases.

#### **761—201.4(72GA,Ch230) Financial assistance.**

**201.4(1) Grants.** The department may award to an applicant a grant for up to 80 percent of the eligible costs of the pilot project.

**201.4(2) Loans.** The department may loan money to an applicant for up to 90 percent of the eligible costs of the pilot project. The department shall determine all loan terms based upon an evaluation of the application.

**201.4(3) Combination of grants and loans.** The department may award a combination of a grant and a loan to an applicant. The total of all grants and loans awarded for one pilot project shall not exceed 90 percent of the eligible costs of the pilot project.

#### **761—201.5(72GA,Ch230) Application procedure.**

**201.5(1) Request.** The rail and water division shall supply all necessary information for submitting an application for financial assistance for a project to any person requesting the information.

**201.5(2) Application.** The applicant shall submit an original and four copies of an application for financial assistance to the rail and water division at the address given in subrule 201.1(2). The application shall include, but not be limited to, the following information:

*a.* A complete description of the applicant, including (where applicable) the officers, directors, major stockholders or partners (those holding more than 4 percent of the equity), the chief executive and financial managers of the applicant, the applicant’s articles of incorporation and bylaws, and a description of all subsidiaries or parent companies. The description of the applicant shall include the applicant’s current (not more than three months old) balance sheet, and the applicant’s balance sheets, income statements, statements of changes in financial position, and cash flow statements for each of the three fiscal years preceding the application or for all years since incorporation or formation if the applicant has not been in existence for three years.

*b.* A description of the proposed pilot project and its purpose, including all of the following:

- (1) A complete physical description of the project.
- (2) Cost estimates for all material components of the project.
- (3) A description or map of all real property, if any, upon which the project facilities will be located, the name and address of the owner or lessor of the real property, and a copy of all lease agreements, encumbrances and interests in or affecting the real property.
- (4) An operating plan including employee and equipment utilization.
- (5) A marketing and traffic plan projecting the quantities and major origins, destinations or overhead transfer points of potential and committed freight traffic that will use the project. The plan shall distinguish between potential freight and committed freight.

*c.* If financial assistance is sought for a demonstration project, a detailed description of the target audience for the project and the applicant’s plans to inform the target audience about the project, to make the project accessible for the target audience to visit, to provide technical assistance to the target

audience to help implement the techniques demonstrated by the project, and to determine if the concepts and practices in the project are being used by the target audience.

*d.* A cash flow projection for the project including operating revenues and costs, capital costs, debt repayments of principal and interest, and profit distributions. The cash flow projection shall cover at least the number of years requested by the applicant to repay any loan.

*e.* A projection of total annual dollar savings of freight transportation, handling, and other costs to Iowa shippers from use of the project.

*f.* A projection of total annual ton-miles of freight in Iowa to be diverted from highway to non-highway modes as a result of the project.

*g.* A projection of annual energy savings from the project. The projection shall show methods of calculation and show how the projected energy savings are consistent with the projected operating plan and the marketing and traffic plan.

*h.* A description of agreements to permit transportation companies to have reasonable competitive access to the project to maximize the use of, and the energy savings from, the proposed project.

*i.* A written statement by the applicant acknowledging that all of the information in the application is public information, and a release of the department from liability for its disclosure.

*j.* A detailed request for financial assistance, including the dollar amount of any proposed grant and the dollar amount, loan term, interest rate and proposed amortization schedule of any proposed loan. If a loan is requested, a description of the security (including an appraisal of any real estate) to be offered to the department shall be included.

*k.* A certification by the applicant under penalty of perjury, that any award of financial assistance, any subsequent letting of contracts for project costs, or the furnishing of materials therefor, shall not involve direct or indirect interest, prohibited by Iowa Code section 314.2, 362.5, or 331.342, of any state, county, or city official, elective or appointive. The certification shall also state that any award of financial assistance or any letting of any contract in violation of the foregoing provisions shall invalidate the award of financial assistance and authorize a complete recovery of any funds previously disbursed.

**201.5(3) *Review and acceptance of application.***

*a.* The department shall determine and notify the applicant of the completeness of the application.

*b.* If the application is incomplete, the department shall specify the additional information needed.

(1) The department shall establish a deadline for submission of the additional information.

(2) The department may grant an extension for good cause if requested by the applicant.

(3) If all the requested information is not received by the deadline, the department shall return the incomplete application to the applicant, who may resubmit it as a new application.

*c.* If the department determines that the application is complete, the department shall notify the applicant by certified mail within ten working days that the application is accepted and shall be processed.

*d.* An applicant may withdraw an application at any time.

**201.5(4) *Public announcement.*** The department shall publish an announcement of each complete application within 14 days of acceptance.

*a.* The announcement shall include a description of the project, the date on which the complete application was accepted, and the location where the public can view or obtain a copy of the application.

*b.* The announcement shall be published in one newspaper of statewide circulation and one newspaper circulated in the project area.

*c.* The department shall accept written comments for 20 days following the date of publication.

**761—201.6(72GA,Ch230) *Staff analysis.***

**201.6(1)** Department staff shall prepare an analysis of each complete application.

**201.6(2)** The analysis shall include but not be limited to:

- a. An evaluation of the projected energy savings from the project.
- b. If the project is a demonstration project, an evaluation of the project's target audience and the applicant's proposed efforts to reach the target audience.
- c. An economic analysis of the public benefits versus the public costs of the project. All benefits and costs shall be calculated for a period reflecting a reasonable life expectancy of the project, discounted to present value, using the following formula and terms:

$$\frac{\text{Public benefits}}{\text{Public costs}} = \frac{\text{Shipper benefits} + \text{highway authority benefits}}{\text{Public financial assistance}}$$

(1) Shipper benefits are the dollar savings of freight transportation, handling and other costs to Iowa shippers from use of the proposed project.

(2) Highway authority benefits are road and street maintenance, construction, and reconstruction costs projected to be avoided as a result of diversion of freight traffic from Iowa roads and streets because of the proposed project.

(3) Public financial assistance is the dollar amount of any grant, plus the present value of an interest subsidy for any loan provided by the department to the project.

d. A financial analysis of the project to determine whether it can reasonably be expected to succeed financially. The analysis shall include:

(1) An evaluation of whether the project will be able to repay a commercial interest rate loan, in which case department financial assistance may be unnecessary;

(2) An evaluation of what combination and type of loan or grant may be needed to provide the project with a likelihood of financial viability, if this is possible; and

(3) An evaluation of whether the project is so financially insecure that it cannot be expected to succeed even with department financial assistance.

#### **761—201.7(72GA,Ch230) Staff recommendation.**

**201.7(1)** Department staff shall prepare a recommendation for each complete application.

**201.7(2)** The staff shall not recommend approval of the application unless all of the following conditions, where applicable, are satisfied:

a. The project shall have projected energy savings.

b. If the project is a demonstration project, it shall have a specific target audience, the applicant's proposed efforts to reach the target audience shall be reasonable and adequate, the project shall be convenient for the target audience to visit, and there shall be a method to determine if the project is being accepted and used by the target audience.

c. The present value of the public benefits from the project shall equal or exceed the present value of the public costs, or the energy savings shall be substantial enough to be judged by staff to outweigh an unfavorable economic analysis.

d. The financial analysis shall show that the applicant is financially responsible and able to undertake the pilot project with the recommended financial assistance, so that the projected energy savings and public benefits can reasonably be expected to be achieved.

**201.7(3)** A staff recommendation for approval shall include the type and amount of assistance recommended.

#### **761—201.8(72GA,Ch230) Commission action.**

**201.8(1)** The staff shall present the complete application and the staff analysis and recommendation to the commission at a public meeting. The staff shall send to the commission and the applicant copies of the analysis and recommendation at least 14 days before the presentation date.

**201.8(2)** The commission may approve, reject, or modify the staff recommendation.

**201.8(3)** If financial assistance is approved by the commission, the project shall be submitted to the Iowa energy fund disbursement council for approval. If approved by the Iowa energy fund disbursement council, the project shall be submitted to the U.S. Department of Energy for approval.

**201.8(4)** If the commission denies financial assistance, the application may be submitted as a new application.

**761—201.9(72GA,Ch230) Contract preparation and execution.**

**201.9(1)** After the commission and other necessary authorities have approved financial assistance, the rail and water division shall negotiate a contract with the applicant which complies with all the approval terms and requirements specified. The contract shall require the applicant to indemnify the state and its officers and employees to the full extent permitted by law.

**201.9(2)** Prior to execution of the contract, the department may require a preaudit evaluation of the applicant. The preaudit evaluation may include, but shall not be limited to, the following:

- a.* An examination of the applicant's accounting methods and procedures to determine the applicant's ability to segregate and accumulate costs to be charged against the project.
- b.* An examination of the applicant's cost factors to assure their propriety and allowability.
- c.* An examination of any other information which may be pertinent or necessary to determine the applicant's auditability.

**201.9(3)** If the preaudit evaluation shows that revisions to the applicant's accounting procedures are necessary to assure that applicant's auditability, the revisions shall be made by the applicant prior to execution of the contract.

**201.9(4)** After any preaudit evaluation and at the conclusion of successful contract negotiations, the director of the rail and water division shall execute the contract.

**201.9(5)** If contract negotiations are not successfully completed within a reasonable period, the commission may withdraw its approval of financial assistance.

**761—201.10(72GA,Ch230) Monitoring.** The department shall monitor all contract provisions for compliance.

These rules are intended to implement Iowa Code section 473.11 and 1987 Iowa Acts, chapter 230, sections 1, 4, 5, 6 and 7.

[Filed emergency 11/24/87—published 12/16/87, effective 11/30/87]

[Filed 2/3/88, Notice 12/16/87—published 2/24/88, effective 3/30/88]